

### REMARKS

Claims 16-28 are pending in the present application. Claims 1-15 are cancelled and claims 16 and 24 have been amended herein. No new matter has been added.

Claims 16-28 have been rejected under 35 U.S.C. § 112, second paragraph, as assertedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 16-28 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicants respectfully traverse these rejections.

#### Rejections of Claims 16-28 under 35 U.S.C. § 112, second paragraph

Regarding claim 16, the Office Action asserted that “the ‘notched spacer’ that is ‘thinner along the surface of the substrate’ is not clear.” (Office Action, page 2.) The Office Action further inquired, “Is this discussed in the specification?” (Office Action, page 2.) Applicants respectfully assert that the referenced limitation is clear and that this limitation is discussed in the specification. In particular, Applicants respectfully direct the Examiner’s attention to paragraph [0025] of the application as filed, which paragraph is duplicated below for the convenience of the Examiner.

[0025] As illustrated in FIG. 1e, the portion of the first dielectric layer 126 (FIG. 1d) located under the notched-spacer masks 130 is removed due to the isotropic etch process, thereby creating a notched spacer. The width of the notch will be dependent upon the thickness of the first dielectric layer 126 and the notch height may be controlled by varying the etch duration. Furthermore, FIG. 1e illustrates the situation in which the first dielectric layer 126 is removed completely to the gate electrode 122. *In other situations, a portion of the first dielectric layer 126 may remain on the side of the gate electrode 122. This may be desirable, for example, when it is preferred to control the depth and angle of the implant or to protect the gate electrode 122 or gate dielectric 120 from damage during the etching process or other processes.*

(Application as filed, paragraph 25.) (Emphasis added.)

As the above-cited section clearly explains that, when removing a portion of the first dielectric layer 126 to form the notched spacers 132, it may be desirable to leave a portion of the

first dielectric layer 126 alongside of the gate electrode. In other words, the notched spacer is “thinner along the surface of the substrate.” This may be desirable, for example, to control the depth and angle of the implant or to protect the gate electrode 122 or gate dielectric 120 during the etching process. Given the context of this passage, it is clear that the notched spacer would be “thinner along the surface of the substrate” as recited in claim 16.

Nevertheless, Applicants have amended claim 16 to more clearly recite an embodiment of the present invention in an attempt to move this case forward.

Accordingly, Applicants respectfully request that the rejection of claim 16 as being indefinite under 35 U.S.C. § 112, second paragraph, be withdrawn.

Regarding claim 24, Applicants would like to thank the Examiner for the thorough review of the claim language. As the Examiner correctly pointed out, the phrase “the etching process removing at least a portion of the second layer along the surface of the substrate” contains a typographical error and should read “the etching process removing at least a portion of the *first* layer along the surface of the substrate.” Applicants have amended claim 24 accordingly. Applicants have further amended claim 24 to more clearly recite an embodiment of the present invention.

Accordingly, Applicants respectfully request that the rejection of claim 24 as being indefinite under 35 U.S.C. § 112, second paragraph, be withdrawn.

Claims 17-23 and 25-28 depend from and further limit independent claims 16 and 24 in a patentable sense. Accordingly, Applicants respectfully request that the rejections of claims 17-23 and 25-28 be withdrawn as well.

**Rejections of Claims 16-28 under 35 U.S.C. § 112, first paragraph**

Regarding claim 16, Applicants respectfully assert that the claim limitation “thinner along the surface of the substrate” is taught in the specification as discussed above. Accordingly, Applicants respectfully request that the rejection of claim 16 under 35 U.S.C. § 112, first paragraph, be withdrawn.

Regarding claim 24, Applicants have amended the claim as suggested by the Examiner, rendering this rejection moot. Accordingly, Applicants respectfully request that the rejection of claim 24 under 35 U.S.C. § 112, first paragraph, be withdrawn.

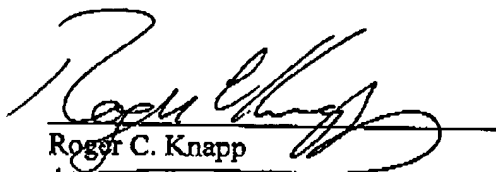
Claims 17-23 and 25-28 depend from and further limit independent claims 16 and 24 in a patentable sense. Accordingly, Applicants respectfully request that the rejections of claims 17-23 and 25-28 be withdrawn as well.

In view of the above, Applicants respectfully submit that the application is in condition for allowance and request that the Examiner pass the case to issuance. If the Examiner should have any questions, Applicants request that the Examiner contact Applicants' attorney at the address below. No fee is believed due in connection with this filing. However, in the event that there are any fees due, please charge the same, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

  
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